

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY CEASER LEWIS, 19007243,
Plaintiff,
v.
GOOGLE INC., et al.,
Defendant(s).

Case No. [19-cv-04319-CRB](#) (PR)

ORDER OF DISMISSAL

Plaintiff, a prisoner at the Santa Clara County Department of Correction's Elmwood Facility in Milpitas, has filed a pro se complaint under 42 U.S.C. § 1983 alleging that Google and its employees and workers violated his constitutional rights by publishing confidential information of his on the web.

Plaintiff also seeks leave to proceed in forma pauperis (IFP) under 28 U.S.C. § 1915, which the court is granting in a separate order.

DISCUSSION

A. Standard of Review

Federal courts must dismiss a case in which the plaintiff is proceeding IFP if it determines at any time that the case "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). Pro se pleadings must be liberally construed, however. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

B. Legal Claims

1 It is well established that a private person does not act under color of state law, an essential
2 element of a § 1983 action. See Gomez v. Toledo, 446 U.S. 635, 640 (1980). Purely private
3 conduct, no matter how wrongful, is not covered under § 1983. See Ouzts v. Maryland Nat'l Ins.
4 Co., 505 F.2d 547, 550 (9th Cir. 1974). Simply put: There is no enforceable claim under § 1983 to
5 be free from the infliction of constitutional deprivations by private entities and/or individuals such
6 as Google and its employees and workers. See Van Ort v. Estate of Stanewich, 92 F.3d 831, 835
(9th Cir. 1996).

7 CONCLUSION

8 For the foregoing reasons, the complaint is DISMISSED under 28 U.S.C. § 1915A(b) for
9 failure to state a claim upon which relief may be granted.

10 **IT IS SO ORDERED.**

11 Dated: August 8, 2019



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13 CHARLES R. BREYER
14 United States District Judge
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 8, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony Ceaser Lewis ID: #1900-7243
Milpitas Corrections
701 S. Abel Street
Milpitas, CA 95035

Dated: August 8, 2019

Susan Y. Soong
Clerk, United States District Court

By: 
Lashanda Scott, Deputy Clerk to the
Honorable CHARLES R. BREYER